

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LAMAR RAYNE,	§
	§ No. 779, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware, in and
	§ for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0812001078
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 10, 2011

Decided: July 27, 2011

Before **BERGER, JACOBS** and **RIDGELY**, Justices

ORDER

This 27th day of July 2011, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The defendant-appellant, Lamar Rayne, filed an appeal from the Superior Court’s December 7, 2010 violation of probation (“VOP”) sentencing order. We find no merit to the appeal. Accordingly, we affirm.

(2) The record before us reflects that, in March 2009, Rayne pleaded guilty to the lesser-included offense of Assault in the Second Degree. He was sentenced to 8 years at Level V, with credit for 66 days previously served, to be suspended for 1 year at Level III probation. In November 2009, Rayne was found to have committed a VOP. He was

sentenced to 8 years at Level V, with credit for 96 days previously served, to be suspended for 3 months at Level IV Work Release, to be followed by 1 year at Level III probation.

(3) Rayne was found to have committed a second VOP in May 2010. Taking into account all Level V time previously served, the Superior Court sentenced him to 7 years at Level V, to be suspended for 18 months at Level III probation. In August 2010, Rayne was sentenced for a third VOP to 7 years at Level V, with credit for 19 days previously served, to be suspended for 1 year at Level IV Crest, in turn to be suspended upon successful completion of the program for 18 months at Level III probation. In September 2010, Rayne was found to have committed a fourth VOP. Sentencing was deferred pending a mental health evaluation.¹ In December 2010, Rayne was sentenced to 6 years and 7 months at Level V, to be followed by 6 months at Level III.

(4) In this appeal from the December 7, 2010 VOP sentencing order, Rayne does not dispute that his sentence is lawful, but, rather, claims that the Superior Court abused its discretion by sentencing him to Level V time for “technical” probation violations.

¹ The report concluded that medications were of limited assistance to Rayne, who has a personality disorder.

(5) The transcript of the VOP hearing reflects that Rayne did not dispute that he had engaged in disruptive behavior while in the Crest Program. The Superior Court, thus, properly found that Rayne had committed a VOP. Regarding the sentence imposed, this Court's appellate review of a VOP sentence is limited to whether the sentence exceeds the statutory limits.² Once a defendant violates the terms of his probation, the Superior Court has the authority to require the defendant to serve the full amount of Level V time remaining on his original sentence.³ The record reflects that Rayne's sentence for his fourth VOP was within the statutory limits and reflected all of the time Rayne previously spent at Level V. As such, we conclude that the Superior Court's VOP sentence was proper and must be affirmed.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

² *Mayes v. State*, 604 A.2d 839, 842 (Del. 1992).

³ Del. Code Ann. tit. 11, §4334(c).